



### **SUBJECT MATTER JURISDICTION**

4. This action arises under the patent laws of the United States, including 35 U.S.C. § 271, which gives rise to the remedies specified under 35 U.S.C. §§ 281, 283, 284, and 285.

5. This Court has subject matter jurisdiction over Wavetronix's claims for relief pursuant to 28 U.S.C. §§ 1331 and 1338(a).

### **BACKGROUND**

6. Wavetronix is a world leader in intelligent transportation systems, including advanced radar sensors, power and communication solutions and data management appliances. Among other things, Wavetronix sells advanced solutions for monitoring traffic and controlling traffic signals at intersections when motorists are faced with the dilemma of deciding whether to stop for a yellow light or to accelerate through the intersection. Failure to properly monitor and control traffic signals based on traffic patterns can result in rear-end collisions, right angle collisions with cross traffic, as well as other hazardous conditions. The zone in which motorists are faced with the dilemma of whether to stop or accelerate is sometimes referred to as a "dilemma zone."

7. Wavetronix is the owner by assignment from the inventors of U.S. Patent No. 7,991,542 ("the '542 patent"), which issued on August 2, 2011. A true and correct copy of the '542 patent is attached hereto as Exhibit A. The '542 patent claims methods related to monitoring of traffic flow involving vehicles in the dilemma zone.

8. Wavetronix currently sells and offers for sale its "SmartSensor Advance" and "SmartSensor Advance Extended Range" products (collectively the "Advance" products), which carry out a method that is protected by the '542 patent.

9. Through distributors and otherwise, Iteris sells and offers to sell its "Vantage Vector" product in the United States in competition with Wavetronix's Advance products.

10. Wavetronix has marked its Advance products with the '542 patent number. Wavetronix has also posted on its website at <http://www.wavetronix.com/en/legal/patents> the fact that its "SmartSensor Advance" and "SmartSensor Advance Extended Range" products are protected by the '542 patent.

11. In May 2013, Wavetronix brought an action for patent infringement against Smart Microwave Sensor GmbH ("SMS") in the Western District of Pennsylvania for infringement of the '542 patent. As a result of that litigation, Wavetronix obtained preliminary and permanent injunctions against SMS and its distributor, Path Master.

12. As part of the SMS litigation, SMS made changes to its radar sensor so that it would not infringe the '542 patent, and put all of its customers on notice of the '542 litigation and the changes it had made to its sensor.

13. On information and belief, SMS supplies Iteris with the radar portion of the Vantage Vector product. In July 2013, SMS sent Iteris notice of the '542 patent, the fact that it (SMS) had been in litigation with Wavetronix over the '542 patent and that it (SMS) had agreed to alter its radar sensor so it would not infringe the '542 patent.

14. Iteris's Vantage Vector product in Continuous mode carries out a method that is covered by one or more claims of the '542 patent.

15. Iteris's Vantage Vector product and/or functionality within that product has no substantial use other than to carry out a method that is covered by one or more claims of the '542 patent.

16. Iteris induces purchasers and/or other users of its Vantage Vector product to use that product to carry out a method that is covered by one or more claims of the '542 patent.

17. Iteris does not have a license under the '542 patent.

**PERSONAL JURISDICTION AND VENUE**

18. Iteris has continuous and systematic contacts with the State of Texas. Iteris is registered to do business in Texas with a place of business at 912 South Capital of Texas Hwy # 190, Austin Texas. Iteris has appointed Registered Agent Solutions, Inc., at 1701 Directors Blvd., Suite 300, Austin, Texas, as its registered agent for service of process.

19. On information and belief, Iteris has demonstrated the Vantage Vector product within the Western District of Texas, thereby using a method that is covered by one or more claims of the '542 patent.

20. Iteris has sold and offered for sale the Vantage Vector product within the Western District of Texas, and that product in Continuous mode has no substantial use other than for carrying out a method covered by one or more claims of the '542 patent.

21. Iteris has induced and encouraged traffic professionals to perform the methods claimed in the '542 patent in this judicial district by, *inter alia*, using and instructing others in the use of the Vantage Vector product to perform the methods claimed in one or more of the claims of the '542 patent and bidding on at least one job in the Western District of Texas where the specification for the job requires features that when performed infringe one or more of the claims of the '542 patent.

22. This Court has personal jurisdiction over Iteris pursuant to Fed.R.Civ.P. 4(k)(1)(A) and the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code Section 17.042. This Court's exercise of personal jurisdiction over Iteris is consistent with the Constitution of the United States.

23. Pursuant to 28 U.S.C. §§ 1391(c)(2) and 1391(d), Iteris is deemed to reside in this judicial district for purposes of venue.

24. Venue is proper in this judicial district pursuant to, at least, 28 U.S.C. §§ 1391(b)(1), 1391(b)(2), and 1400(b).

**CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**Direct Infringement of the '542 Patent by Iteris**

25. Wavetronix restates and incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

26. On information and belief, Iteris has demonstrated the use of the Vantage Vector to customers in the United States, thereby infringing one or more claims of the '542 patent.

27. The Iteris Vantage Vector product in Continuous mode uses a method that is covered by one or more claims of the '542 patent. The performance of the method is dictated by Iteris's design of its sensors and software and occurs automatically after the Vantage Vector product is enabled / activated by Iteris's device design and software. The Vantage Vector product is currently in operation in Continuous mode in the United States and Iteris is actively selling and placing Vantage Vector products into operation in Continuous mode in the United States. As a result, pursuant to *SiRF Technology, Inc. v. International Trade Commission*, 601 F.3d 1319, 1329-31 (Fed. Cir. 2010), Iteris has used a method covered by one or more claims of the '542 patent within the United States during the term of the '542 patent without authority to do so and will continue to do so unless enjoined. Therefore, Iteris has directly infringed the '542 patent under 35 U.S.C. § 271(a) and will continue to do so unless enjoined.

28. Wavetronix is suffering and will continue to suffer irreparable harm by reason of Iteris's direct infringement, and is entitled to preliminary and permanent injunctive relief as set forth below.

29. Wavetronix has also suffered damages by reasons of Iteris's direct infringement, and is entitled to damages in an amount to be established upon proper proof at trial.

30. Iteris's infringement has been willful.

## **SECOND CLAIM FOR RELIEF**

### **Contributory Infringement of the '542 Patent by Iteris**

31. Wavetronix restates and incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

32. On information and belief, Iteris's Vantage Vector product and/or functionality within that product has no substantial use other than to carry out a method that is covered by one or more claims of the '542 patent. Iteris has knowledge of the '542 patent and has knowledge that the Vantage Vector product and/or functionality within those products has no substantial use other than to carry out a method that is covered by one or more claims of the '542 patent.

33. With knowledge of the '542 patent, Iteris has sold, offered for sale, and/or imported the Vantage Vector product within the United States during the term of the '542 patent and plans to continue to sell, offer to sell, and/or import more of the Vantage Vector product within the United States. The Vantage Vector product is currently being used in Continuous mode within the United States and/or will be so used within the United States by purchasers and/or other users, resulting in direct infringement of the '542 patent. As a result, Iteris has contributorily infringed the '542 patent under 35 U.S.C. §271(c) and/or plans to do so unless enjoined.

34. Wavetronix is suffering and/or will suffer irreparable harm by reason of Iteris's infringement, and is entitled to preliminary and permanent injunctive relief as set forth below.

35. Wavetronix is also entitled to damages for Iteris's infringement, in an amount to be established upon proper proof at trial.

36. Iteris's infringement has been willful.

### **THIRD CLAIM FOR RELIEF**

#### **Inducement of the '542 Patent by Iteris**

37. Wavetronix restates and incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

38. Iteris encourages and intends for its customers and/or other users of Vantage Vector product to use that product to carry out methods covered by one or more claims of the '542 patent. Among other things, Iteris induces infringement of the '542 patent by providing its customers and/or users with information and literature promoting features of the Vantage Vector product that when used as promoted, infringe one or more claims of the '542 patent, and by encouraging its distributors to do the same. Iteris has knowledge of the '542 patent and has knowledge that the method it encourages customers and/or other users to use is covered by one or more claims of the '542 patent.

39. Alternatively, Iteris subjectively believes that there is a high probability that use of the Vantage Vector pursuant to Iteris's instructions for use will result in direct infringement of one or claims of the '542. On information and belief, Iteris has taken deliberate actions to avoid learning of such infringement.

40. The Vantage Vector product are currently being used within the United States by Iteris customers and/or other users in accordance with Iteris's encouragement to carry out a method that is covered by one or more claims of the '542 patent and/or will be used within the United States by purchasers and/or other users in accordance with Iteris's encouragement to

carry out a method that is covered by one or more claims of the '542 patent, resulting in direct infringement of the '542 patent. As a result, Iteris has actively induced infringement of the '542 patent under 35 U.S.C. § 271(b) and/or plans to do so unless enjoined.

41. Wavetronix is suffering and/or will suffer irreparable harm by reason of Iteris's infringement, and is entitled to preliminary and permanent injunctive relief as set forth below.

42. Wavetronix is also entitled to damages for Iteris's infringement, in an amount to be established upon proper proof at trial.

43. Iteris's infringement has been willful.

#### **PRAYER FOR RELIEF**

WHEREFORE, Wavetronix requests that the Court grant Wavetronix the following relief:

1. An order preliminarily enjoining Iteris, its agents and servants, and any and all parties acting in active concert or participation with Iteris, from future direct or indirect infringement of the '524 patent, pursuant to at least 35 U.S.C. § 283, during the pendency of this action;

2. A judgment finding Iteris liable for infringement of the '524 patent and awarding damages for that infringement, in an amount to be proven at trial, pursuant to 35 U.S.C. § 284;

3. An order permanently enjoining Iteris, its agents and servants, and any and all parties acting in concert with any of them, from future direct or indirect infringement of the '524 patent, pursuant to at least 35 U.S.C. § 283;

4. An order requiring Iteris to destroy its entire stock of the Vantage Vector products within the United States, pursuant to at least 35 U.S.C. § 283;

5. An award of pre-judgment interest, pursuant to at least 35 U.S.C. § 284;



6. An award of costs in bringing this action, pursuant to at least 35 U.S.C. § 284;
7. A determination that some or all of the damages awarded for past infringement should be trebled in view of willful infringement by Iteris, pursuant to at least 35 U.S.C. § 284;
8. A declaration that this is an exceptional case and an award of attorneys' fees and expenses, pursuant to at least 35 U.S.C. § 285;
9. An award of post-judgment interest, pursuant to at least 28 U.S.C. § 1961(a); and
10. All other relief which this Court in its discretion deems just, proper, and equitable.

### **JURY DEMAND**

Wavetronix hereby demands a trial by jury on all issues so triable.

DATED this 24th day of October, 2014.

By: /s/ Ryan C. Bueche

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